

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

THE BLACK HERITAGE SOCIETY,
et al.,

§
§
§

Plaintiff,

§
§
§

v.

CIVIL ACTION NO. H-07-0052

§
§
§
§

BILL WHITE, *et al.*,

Defendants.

§

ORDER GRANTING MOTION TO DISMISS

On February 23, 2007, Bill White and Michael S. Marcotte, individuals sued in their official capacities, moved to dismiss on the basis that the suit is properly against the City of Houston. (Docket Entry No. 14). Bill White is sued in his official capacity as Mayor; Michael Marcotte is sued in his official capacity as Director of the City of Houston's Department of Public Works & Engineering. The plaintiffs have not responded to the motion to dismiss.

A suit against a government official in his official capacity is the same as a suit against the governmental entity. *Romero v. Becken*, 256 F.3d 349 (5th Cir. 2001). The motion to dismiss is granted. This suit will proceed against the City of Houston. Plaintiffs must replead no later than **March 1, 2007** to name the City of Houston as the defendant.

SIGNED on February 15, 2007, at Houston, Texas.



Lee H. Rosenthal
United States District Judge